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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,901	07/30/2003	Carl Schnurr	214767.00018	6250

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EXAMINER

JILLIONS, JOHN M

ART UNIT	PAPER NUMBER
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3654

DATE MAILED: 10/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/629,901

Applicant(s)

SCHNURR, CARL *sf*

Examiner

John M. Jillions

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 22-29 is/are rejected.
- 7) ☒ Claim(s) 17-21 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/21/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 10-14, 25-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 10, line 5, “one or” should be –one or more—to be clear and accurate. Claim 25, line 9, “housing portion” should be –housing portions—to be accurate.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Morgan. Morgan discloses a magnetic clamp device 10 including a housing portion 30 receiving a magnet 34, and another portion 32 extending outwardly from the first portion 30. The recitation in lines 4-5 of claim 1, “to maintain the outer free end region and the roll body in contact with one another” is a suggested use or function of the device and of no patentable significance. Re claim 4 the second portion 32 of Morgan can function as a handle when a user places the clamp device in contact with the roll of material.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morgan in view of Beyer. Beyer discloses a housing 10 for a magnet element 18 that uses a screw 22 threadedly engaged with a side wall of the housing for attaching the magnet thereto. It would have been obvious to one of ordinary skill in the art to use a screw in the device of Morgan to help attach the magnet within the housing and to more surely prevent the magnet from coming out of the housing.

Claim Rejections - 35 USC § 103

7. Claims 1 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Birschkus in view of Meier. Birschkus discloses a steel roll of material having a mechanical device for keeping the outer end of the material on the roll. Meier teaches the use of a magnet for attaching the outer end of a roll of material that includes an outer wrap greater than the circumference of the roll made of steel, see col. 8, lines 6-14. It would have been obvious to one of ordinary skill in the art to provide the roll of Birschkus with a magnet for attaching the outer end to the roll itself in view of the teaching of Meier. Such a modification would have been obvious since it would provide a simpler and less expensive way to perform the same function.

8. Claims 2-7, 9, 11-16, 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Birschkus in view of Meier, further in view of Adams. Adams discloses a magnet support

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housing surrounding the magnet(s) and a handle 8, 9, for carrying and for facilitating the detachment of the magnet from its mounting surface. It would further have been obvious to one of ordinary skill in the art to use a housing having a handle as claimed to support the magnet of Birschkus as modified by Meier during use in view of the teaching of Adams. Such housing would have prevented damage to the magnet, and facilitated carrying and detachment of the magnet device from its mounting surface.

9. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Birschkus in view of Meier and Adams as in the rejection of claim 7 above, further in view of Beyer. In the device of Birschkus as modified by Meier and Adams it would have been further obvious to substitute for the rivet type of connection as shown at 14 of Adams a screw type of connection as taught by Beyer for accomplishing the same purpose.

Allowable Subject Matter

10. Claims 17-21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. Claims 25-29 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Snider, Westermann, Angle, Woods, Olson et al, Kulka, Madore, James and Von Ende are cited to show other magnet holding devices.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to John M. Jillions whose telephone number is (703) 308-2685. The examiner can normally be reached on M-F 9:15 - 5:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on (703) 308-2688. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John M. Jillions
Primary Examiner
Art Unit 3654

jmj